

**IN THE UNITED STATES COURT
OF FEDERAL CLAIMS**

HIGHMARK, INC, *et al.*,

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

No. 20-1686 C
Judge Kaplan

JOINT STATUS REPORT

The parties respectfully submit this joint status report to request that the Court continue the stay in these proceedings. This case is currently stayed because the Government is working with a number of cost-sharing reduction (“CSR”) Plaintiffs to determine whether they may efficiently resolve this and other pending CSR matters without further litigation or at least streamline these cases. The parties to a number of these CSR cases, including this one, have stipulated to entry of partial final judgment as to the CSR amounts owed by the Government for 2017. On September 23, 2022, with leave of this Court, the Plaintiffs filed an Amended Complaint to recover CSR payments due to Plaintiffs for 2018-21.

As stated in the parties’ previous Joint Status Report, counsel for the parties have continued to engage in productive settlement negotiations regarding this and other CSR cases currently pending before this Court. The parties most recently exchanged letters on September 7 and September 19, 2023. In light of those communications, the parties believe that they have reached a tentative agreement in principle on a methodology by which the parties can settle some of these CSR cases. This settlement methodology must,

however, be approved by officials at both the Department of Health and Human Services and the Department of Justice and any settlement also must approved and accepted by each participating CSR plaintiff. In addition, the parties will need to gather relevant data from plaintiff-insurers from past benefit years in order to calculate whether damages may be owed to a given plaintiff insurer for a given year. The Centers for Medicare and Medicaid Services is currently preparing a process for plaintiff insurers to submit relevant CSR data. Once that data is gathered and analyzed, plaintiffs will have the option of participating in the proposed settlement process or continuing instead with litigation.

Both the approval process and data gathering and analysis will take time. We thus respectfully request that the Court continue the stay in this case for 60 days, until Tuesday, November 28, 2023, at which time the parties propose to update the Court regarding the current status of the settlement process.

September 29, 2023

Respectfully submitted,

/s/ Lawrence S. Sher

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